



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

NS
F. #2020R00275

*271 Cadman Plaza East
Brooklyn, New York 11201*

August 27, 2020

By E-Mail and ECF

Mr. Douglas Morris, Esq.
Federal Defenders of New York, Inc.
Eastern District of New York
One Pierrepont Plaza, 16th Floor
Brooklyn, New York 11201

E-Mail: douglas_morris@fd.org

Re: United States v. Donnell Russell
Magistrate Docket No. 20-239

Dear Mr. Morris:

Enclosed please find the government's initial discovery in accordance with Rule 16 of the Federal Rules of Criminal Procedure. The government also requests reciprocal discovery from the defendant.

I. The Government's Discovery

A. Statements of the Defendant, the Defendant's Criminal History, Documents and Tangible Objects, and Reports of Examinations and Tests

Enclosed please find copies of the following items.

<u>Discovery Exhibit</u>	<u>Description</u>
1	Video recorded statements made by the defendant on YouTube on January 25, 2020
2	Video recorded statements made by the defendant on YouTube on January 26, 2020
3	The defendant's criminal history report
4	Affidavit, Nondisclosure Order and Search Warrant for email account ib.drussell@gmail.com
5	Affidavit, Nondisclosure Order and Search Warrant for email account colondunn@yahoo.com
6	Letter dated October 22, 2018 and attachments
7	Search Warrant Return for email account ib.drussell@gmail.com
7a	Business Records Certification
8	Search Warrant Return for email account colondunn@yahoo.com
8a	Business Records Certification
9	Redacted NYPD Police Laboratory Report dated April 4, 2019
10	Redacted NYPD Supplemental – LPS Report of Examination dated April 21, 2020

You may examine the physical evidence discoverable under Rule 16, including original documents, by calling me to arrange a mutually convenient time.

The government will provide you with copies of any additional reports of examinations or tests in this case as they become available.

B. Expert Witnesses

The government will comply with Fed. R. Crim. P. 16(a)(1)(G) and Fed. R. Evid. 702, 703 and 705 and notify you in a timely fashion of any expert that the government intends to call at trial and provide you with a summary of the expert's opinion.

The identity, qualifications, and bases for the conclusions of each expert will be provided to you when they become available.

C. Brady Material

The government is not aware of any exculpatory material regarding the defendant. The government understands and will comply with its continuing obligation to produce exculpatory material as defined by Brady v. Maryland, 373 U.S. 83 (1963), and its progeny.

Before trial, the government will furnish materials discoverable pursuant to Title 18, United States Code, Section 3500, as well as impeachment materials. See Giglio v. United States, 405 U.S. 150 (1972).

D. Other Crimes, Wrongs or Acts

The government will provide the defendant with reasonable notice in advance of trial if it intends to offer any material under Fed. R. Evid. 404(b).

II. The Defendant's Required Disclosures

The government hereby requests reciprocal discovery under Rule 16(b) of the Federal Rules of Criminal Procedure. The government requests that the defendant allow inspection and copying of (1) any books, papers, documents, data, photographs, tapes, tangible objects, or copies or portions thereof, that are in the defendant's possession, custody or control, and that the defendant intends to introduce as evidence or otherwise rely on at trial, and (2) any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, that are in the defendant's possession, custody or control, and that the defendant intends to introduce as evidence or otherwise rely upon at trial, or that were prepared by a witness whom the defendant intends to call at trial.

The government also requests that the defendant disclose prior statements of witnesses who will be called by the defendant to testify. See Fed. R. Crim. P. 26.2. In order to avoid unnecessary delays, the government requests that the defendant have copies of those statements available for production to the government no later than the commencement of trial.

The government also requests that the defendant disclose a written summary of testimony that the defendant intends to use as evidence at trial under Rules 702, 703, and 705 of the Federal Rules of Evidence. The summary should describe the opinions of the witnesses, the bases and reasons for the opinions, and the qualification of the witnesses.

Pursuant to Fed. R. Crim. P. 12.3, the government hereby demands written notice of the defendant's intention, if any, to claim a defense of actual or believed exercise of public authority, and also demands the names and addresses of the witnesses upon whom the defendant intends to rely in establishing the defense identified in any such notice.

III. Future Discussions

If you have any questions or requests regarding further discovery or a disposition of this matter, please do not hesitate to contact us.

Please be advised that, pursuant to the policy of the Office concerning plea offers and negotiations, no plea offer is effective unless and until made in writing and signed by authorized representatives of the Office. In particular, any discussion regarding the pretrial disposition of a matter that is not reduced to writing and signed by authorized representatives of the Office cannot and does not constitute a “formal offer” or a “plea offer,” as those terms are used in Lafler v. Cooper, 132 S. Ct. 1376 (2012), and Missouri v. Frye, 132 S. Ct. 1399 (2012).

Very truly yours,

SETH D. DUCHARME
Acting United States Attorney

By: /s/
Elizabeth Geddes
Nadia Shihata
Maria Cruz Melendez
Assistant U.S. Attorneys
(718) 254-7000

Enclosures

cc: Clerk of the Court (by ECF) (without enclosures)